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7			
8	Attorneys for Debtor		
9	UNITED STATES BANKRUPTCY COURT		
10	DISTRICT OF OREGON		
11	In re	Case No. 16-32311-pcm11	
12	Peak Web LLC,		
13	Debtor.		
14	Mark Calvert, Litigation Trustee of the Peak	Adv. Proc. No.	
15	Web Litigation Trust,	COMPLAINT TO AVOID AND	
16	Plaintiff,	RECOVER AVOIDABLE TRANSFERS PURSUANT TO	
17	v.	11 U.S.C. §§ 547 AND 550	
18	Amur Equipment Finance, Inc., fka Axis Capital Inc., a Nebraska corporation,		
19	Defendant.		
20			
21	Mark Calvert, the duly-appointed	Litigation Trustee of the Peak Web	
22	Litigation Trust created by this bankruptcy case	(the "Litigation Trustee "), brings this	
23	adversary proceeding against Amur Equipment l	Finance, Inc., fka Axis Capital Inc.	
24	("Defendant") to avoid and recover avoidable tra	ansfers pursuant to 11 U.S.C. §§ 547 and 550	
25	and alleges as follows:		
26	* * *		

Page 1 of 5 - COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS PURSUANT TO 11 U.S.C. $\S\S$ 547 AND 550

1	JURISDICTION AND VENUE		
2	1. This Court has jurisdiction over this matter pursuant to 28 U.S.C.		
3	§§ 157 and 1334, and 11 U.S.C. §§ 547 and 550.		
4	2. This is a core proceeding within the meaning of 28 U.S.C. §§ 157.		
5	3. Venue of this adversary proceeding is proper in this Court pursuant to		
6	28 U.S.C. §§ 1408 and 1409.		
7	4. The statutory bases for relief requested in this Complaint are 11 U.S.0		
8	§§ 544, 547 and 550, and Federal Rule of Bankruptcy Procedure 7001.		
9	BACKGROUND AND PARTIES		
10	5. On June 13, 2016 (the "Petition Date"), Peak Web LLC ("Debtor")		
11	filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code		
12	(the "Code").		
13	6. On April 14, 2017, this Court entered an Order Confirming Debtor's		
14	Revised Second Amended Plan of Reorganization (the "Plan") dated February 10, 2017		
15	[ECF No. 634]. Pursuant to Section 1.41 of the confirmed Plan, the Litigation Trustee has		
16	the proper authority to bring this action.		
17	7. Upon information and belief, Defendant is a Nebraska corporation		
18	doing business in Oregon.		
19	8. Defendant either received transfers of property from Debtor during the		
20	Preference Period (as defined below) or was the beneficiary of such transfers.		
21	9. Despite demand, Defendant has not paid to the Litigation Trustee the		
22	Transfers.		
23	* * *		
24	* * *		
25	* * *		
26	* * *		

Page 2 of 5 - COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS PURSUANT TO 11 U.S.C. $\S\S$ 547 AND 550

1		CLAIMS FOR RELIEF	
2	FIRST CLAIM FOR RELIEF		
3	COUNT I		
4	(Avoidar	nce of Preferential Transfers Pursuant to 11 U.S.C. § 547)	
5	10.	The Litigation Trustee realleges and incorporates by reference all prior	
6	paragraphs as if set f	forth fully herein.	
7	11.	On or within 90 days before the Petition Date (the "Preference	
8	Period"), Debtor tran	asferred to Defendant property in which Debtor had an interest	
9	(individually and col	lectively, the "Transfers").	
10	12.	A schedule identifying the Transfers is attached as Exhibit 1 and	
11	incorporated by reference.		
12	13.	Each of the Transfers constitutes a transfer of an interest in property of	
13	Debtor.		
14	14.	Defendant was a creditor of Debtor at the time of each Transfer.	
15	15.	Each of the Transfers was made to or for the benefit of Defendant	
16	because the Transfer	s either reduced or fully satisfied a debt then owed by Debtor to	
17	Defendant.		
18	16.	Each of the Transfers was made for, or on account of, an antecedent	
19	debt owed by Debtor	before such Transfers were made (the "Debt").	
20	17.	At the time of the Transfers, Debtor was insolvent within the meaning	
21	of 11 U.S.C. § 101(3	2).	
22	18.	The Transfers enabled Defendant to receive more than Defendant	
23	would have received	if (a) Debtor's case was a case under Chapter 7 of the Code, (b) the	
24	Transfers had not be	en made, or (c) Defendant received payment on the Debt to the extent	
25	provided by the prov	risions of the Code.	
26	19.	Each of the Transfers constitutes an avoidable preference within the	

Page 3 of 5 - COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS PURSUANT TO 11 U.S.C. $\S\S$ 547 AND 550

1	meaning of 11 U.S.C. § 547.	
2	20. The Litigation Trustee is entitled to judgment against Defendant	
3	avoiding the Transfers under 11 U.S.C. § 547.	
4	COUNT II	
5	(Recovery of Transfers Pursuant to 11 U.S.C. § 550)	
6	21. The Litigation Trustee realleges and incorporates all prior paragraphs	
7	of this Complaint as if set forth fully herein.	
8	22. Defendant was the initial transferee of the Transfers, or the immediate	
9	or mediate transferee of the initial Transfers, or the person for whose benefit the Transfers	
10	were made.	
11	23. The Transfers, to the extent they are avoided pursuant to 11 U.S.C.	
12	§ 547, may be recovered by the Litigation Trustee pursuant to 11 U.S.C. § 550(a).	
13	24. The Trustee is entitled to prejudgment interest.	
14	RELIEF REQUESTED	
15	WHEREFORE, the Litigation Trustee prays for judgment as follows:	
16	1. Avoiding the Transfers under 11 U.S.C. § 547(b);	
17	2. Pursuant to 11 U.S.C. § 550(a), directing Defendant to pay to the	
18	Litigation Trustee an amount to be determined at trial that is not less than the full amount of	
19	the Transfers;	
20	3. Granting judgment in favor of the Litigation Trustee and against	
21	Defendant in an amount equal to the aggregate amount of the Transfers, plus applicable	
22	prejudgment interest;	
23	4. Directing that no payments be made on account of any allowed claims	
24	of Defendant against Debtor pursuant to 11 U.S.C. § 502(d) unless Defendant has paid the	
25	Transfers to the Litigation Trust;	
26	* * *	

Page 4 of 5 - COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS PURSUANT TO 11 U.S.C. $\S\S$ 547 AND 550

1	5.	Awarding the Litigation Trustee its reasonable costs incurred herein;
2	and	
3	6.	Granting the Litigation Trustee such other and further relief as the
4	Court deems just and	l equitable.
5	DATE	ED this 30th day of May, 2018.
6		TONKON TORP LLP
7		
8		By <u>/s/ Ava L. Schoen</u> Timothy J. Conway, OSB No. 851752
9		Ava L. Schoen, OSB No. 044072 Attorneys for Mark Calvert, Litigation Trustee
10		of the Peak Web Litigation Trust
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Page 5 of 5 - COMPLAINT TO AVOID AND RECOVER AVOIDABLE TRANSFERS PURSUANT TO 11 U.S.C. $\S\S$ 547 AND 550

EXHIBIT 1

Amur Equipment Finance, Inc., fka Axis Capital Inc.

Date of	Amount of	
Payment	Payment	
3/30/2016	\$88,313.71	
5/02/2016	\$33,904.57	
	,	
TOTAL:	\$122,218,28	